

'Objectification' and Obfuscation

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Abstract: Martha Nussbaum attempts to improve the clarity of the obscure talk of feminists and conservatives about objectification in connection with sexual matters. Her discussion is a substantial improvement. However, it is inconsistent and opaque, and she continues to apply the pejorative term "objectification" to activities which she herself admits are morally unproblematic and which may even be a joyous part of life. I explain the deficiencies in Nussbaum's discussion, including the fact that she does not notice the one way of objectification that seems inherently problematic, and I show that casual sex, prostitution and pornography are normally not morally problematic even while they exhibit some of Nussbaum's ways of objectification. The term "objectification" should be eschewed because it is a barrier to clear thinking.

Keywords: Nussbaum, objectification, prostitution, pornography

1. Introduction

The term "objectification" is a pejorative one used by feminists and conservatives to denounce various kinds of sexual activities, most notably prostitution, pornography, and some kinds of advertising, but also casual sex, numerous forms of speech, and even heterosexual marriage under contemporary social conditions. The main problems with talk of objectification are that it is often unclear what it means and it is often unclear whether there is anything wrong with the kinds of objectification denounced. In short, talk of objectification often appears to be a hubbub of confusion and indeterminate meaning.

Martha Nussbaum says that the obscurity of discussions on objectification, in particular by the feminists Andrea Dworkin and Catharine MacKinnon, results from failure to distinguish the different ways in which a person can be objectified.¹ She tries to improve the clarity of the debate by

¹ Martha Nussbaum, "Objectification," in *Philosophy and Public Affairs*, 24:4 (1995), 269.

distinguishing seven kinds of objectification and by maintaining that some forms of objectification, in some contexts, can be life-enhancing rather than morally problematic.

In section 2, I discuss Nussbaum's seven ways of objectification and conclude that there is only one clear sense in which any of those forms of objectification is, by its nature, morally problematic. However, that genuine moral issue is one that Nussbaum overlooks. In section 3, I consider Kant's and Nussbaum's notions of treating a person as an end in himself and I suggest that Nussbaum's subliminal divergence from Kant indicates that she has in mind the sort of treatment that is appropriate to the special relationships that exist between friends and loved-ones rather than interpersonal relationships in general. I also suggest that some of the confused condemnation of objectification results from a failure to distinguish those two types of relationships. In section 4, I consider objectification in connection with casual sex, prostitution, and pornography and I show that there is no reason to regard any of those activities as inherently morally problematic, though any kind of activity may be impermissible if conducted in ways which violate people's moral rights. In section 5, I conclude.

2. Ways of Objectification

Martha Nussbaum says that objectification means treating a human being as an object, and thus as non-human, and that there are at least seven ways in which that may be done:

1. *Instrumentality*: The objectifier treats the object as a tool of his or her purposes.
2. *Denial of autonomy*: The objectifier treats the object as lacking in autonomy and self-determination.
3. *Inertness*: The objectifier treats the object as lacking in agency, and perhaps also in activity.
4. *Fungibility*: The objectifier treats the object as interchangeable (a_ with other objects of the same type, and/or (b) with objects of other types.
5. *Violability*: The objectifier treats the object as lacking in boundary-integrity, as something that it is permissible to break up, smash, break into.
6. *Ownership*: The objectifier treats the object as something that is owned by another, can be bought or sold, etc.

7. *Denial of subjectivity*: The objectifier treats the object as something whose experience and feelings (if any) need not be taken into account.²

Nussbaum thinks that there need be nothing morally problematic in using a ballpoint pen in any of those seven ways, with the possible exception of way five; but that it would be morally problematic to treat some non-humans, such as a Monet painting, in some of these ways, particularly ways one, four and five. She refuses to say whether treating a person in any one of ways one to seven would be sufficient to be morally problematic or whether a combination is required. Her reason is that the notion of objectification is too unclear.³ One might have supposed that offering a clear notion of objectification would be a central part of her purpose. She says that none of the seven ways implies any of the others.⁴ She then, inconsistently, suggests that there are some logical relations, including entailment, between the seven modes of treatment.

First, she suggests⁵ that (1) instrumentality, implies (2) denial of autonomy; but that seems to be false. Peter wants to say something to Petra, but she is in another room. At his feet is her small child. Peter kicks the child, assuming correctly that the child will cry and call to her mother and that Petra will then come into the room. When Petra arrives, Peter says his piece. Here Peter uses the child as a tool, but he does not deny the child's autonomy; indeed, he makes use of the child's autonomy in achieving his purpose.

A problem here is that Nussbaum does not explain what she means by "autonomy" despite the facts that the term is used in a multiplicity of senses in the philosophical literature⁶ and that she says that "autonomy is in a certain sense the most exigent of the notions on our list."⁷ She might, for example, say that children are not autonomous because of their undeveloped capacities, either because autonomy is a matter of natural capacity or because it is a matter of moral rights which are grounded in such capacities. Of course, children have *agency*; but so do animals.

I here draw attention to two important senses of "autonomy" that seem essential for this discussion and I distinguish them from agency. The first sense of "autonomy," in which it connotes a natural capacity, has been

² Nussbaum, "Objectification," 256-57.

³ *Ibid.*, 258.

⁴ *Ibid.*, 251.

⁵ *Ibid.*, 259-60.

⁶ For a selection see Thomas Hill, "Autonomy and Benevolent Lies," in *Autonomy and Self-Respect* (Cambridge: Cambridge University Press, 1991), 25-42, section II.

⁷ Nussbaum, "Objectification," 260.

articulated by Karl Popper.⁸ An agent is autonomous if she has the capacity to subject to critical appraisal, including empirical testing where possible, her biologically or culturally inherited theories and thereby to free herself from them by means of a rational choice of better theories. Non-human animals have agency in that they act, and often act intentionally to achieve an end; but lacking the argumentative use of language, they lack the capacity to formulate their inherited theories (or expectations) as a set of propositions and subject them to critical arguments. They thus lack natural autonomy. The second sense of "autonomy" is a moral one: an agent is autonomous to the extent that she has the moral *right* to direct her own actions. The small child, though an agent, lacks full autonomy in both senses, because her critical capacity is not fully developed and because, in consequence, there are adults who have moral rights to direct her actions. In light of this, we can provide a better example to show that (1), instrumentality, does not entail (2), denial of autonomy.

Joanna hires Joe, a plumber, to fix her leaking pipe by means of a contract which states what Joe will achieve, by when, and how much Joanna will pay him provided he does what the contract states. Joanna uses Joe as a tool for her purposes: she wants her leak fixed and she uses Joe as a means to that end. However, Joanna does not treat Joe as if he lacks autonomy in either of the two important senses we have distinguished. She treats him as if he has the capacity for critical appraisal and rational choice between rival theories, for she discusses with him what she wants done, leaving him to consider how it may be done and to decide whether he wants to do it. So, Joanna does not treat Joe as though he lacks the natural capacity for critical appraisal; rather, she relies upon him having that capacity both in her negotiations and in leaving him free to decide how to accomplish his task. Further, Joanna does not treat Joe as though he lacks the moral right to direct his own actions. Rather, she depends upon his consent to do the job for the agreed-upon fee, thereby *respecting* his moral right to "self-determination." That marks an important difference between this example and the earlier one, in that Peter acted impermissibly in kicking the child, because he was thereby violating another person's moral rights (either the child's or her mother's); but Joanna acts permissibly in hiring Joe to fix her pipe.

Thus, Nussbaum's suggestion, that instrumentality entails denial of autonomy, is false. Further, since using someone as a tool is compatible with treating her as possessing both natural and moral autonomy, it does not involve treating her as being non-human. Of course, it would normally be

⁸ Karl Popper, "Epistemology Without a Knowing Subject," in *Objective Knowledge*, corrected edition (Oxford: Clarendon Press, 1973), 119-21, 142-48; Karl Popper and John Eccles, *The Self and its Brain* (London: Routledge and Kegan Paul, 1983), 57-59, 108-112, 144-46.

impermissible to use a person as a tool where doing so involves a violation of her moral rights.

Second, Nussbaum thinks that (6) ownership, entails or is “conceptually linked to” (2) denial of autonomy.⁹ Again, the claim depends upon what she means by autonomy; and she does not tell us. But we can evaluate the claim using the two notions of autonomy we recently distinguished. It seems that ownership of a person (slavery) entails denial of autonomy in the moral sense: the slave-owner denies the slave the moral *right* to direct her own actions. But it also seems clear that ownership of a person does *not* imply denial of the *capacity* of autonomy: the slave-owner may give the slave tasks which require her to utilise her powers of critical appraisal in thinking up and testing new ways of doing things, and will probably take precautions against her attempting to get free of the slave-owner’s control. Thus, ownership does not entail denial of natural autonomy; though it does involve denial of moral autonomy.

Such denial of moral autonomy is normally impermissible where it *violates* the moral right of the slave to direct her own actions. It might, however, be permissible where the slave has consented to it. If the slave has given up her moral right to direct her own actions, it seems that her moral rights have not been violated. Nussbaum seems to overlook the possibility of voluntary slavery despite the fact that it has been common in human history.¹⁰ In consequence, owning someone does not involve treating her as being non-human: the slave-owner may acknowledge that the slave has the capacity for critical rationality; and, if the slave is a voluntary one, the slave-owner’s denial of the slave’s moral autonomy issues from the slave-owner’s respect for that person’s earlier moral autonomy, in that the person used her autonomy, in a self-abrogating way,¹¹ to give up her autonomy.

Third, Nussbaum suggests that (7) denial of subjectivity, entails (2) denial of autonomy.¹² However, given that by “denial of subjectivity” she means treating a person as if her experience and feelings need not be taken into account, her suggestion seems plainly false. Joanna was not obliged to take into account the experience and feelings of Joe with regard to the contract between them. What was important to her was that he was willing and able to do the job for the agreed price. His feelings about the deal, and whatever he experienced in negotiating the deal or in doing the job, need not have troubled her. Yet, while ignoring Joe’s feelings and experiences, Joanna was

⁹ Nussbaum, “Objectification,” 260.

¹⁰ Orlando Patterson, *Slavery and Social Death* (Cambridge, MA: Harvard University Press, 1982), 130-31.

¹¹ David Archard, “Freedom not to be Free: The Case of the Slavery Contract in J.S. Mill’s *On Liberty*,” in *Philosophical Quarterly*, 40:161 (1990), 459.

¹² Nussbaum, “Objectification,” 260.

treating Joe as being both naturally and morally autonomous, as someone who retained his capacity for critical appraisal and his moral right to direct his own actions. Thus, Nussbaum's suggestion that denial of subjectivity entails denial of autonomy is false. In consequence, disregarding a person's experience and feelings need not involve treating her as being non-human.

Fourth, Nussbaum suggests that (3), inertness, entails (2), denial of autonomy.¹³ That suggestion is difficult to evaluate. Natural and moral autonomy apply only to agents, whereas an inert thing, Nussbaum says, is one that lacks agency or activity. If something lacks agency, it is not autonomous. But an agent may temporarily lack activity (for instance, while sleeping) yet still be naturally and morally autonomous. So, one can consistently affirm that an inert thing possesses autonomy. Perhaps Nussbaum intends that an inert thing is one that is *permanently* devoid of activity or *permanently* devoid of agency. In that case, inertness would seem to imply lack of autonomy, since some activity is presupposed in the acquisition of the capacity for critical appraisal (the natural autonomy upon which moral autonomy rests); but it is then unclear how one *could* treat a person as being inert. What could count as treating a person in such a way?

Nussbaum offers an example:

W, a woman, is going out of town for an important interview. M, an acquaintance, says to her, "You don't really need to go. You can just send them some pictures." If M is not a close friend of W, this is almost certain to be an offensively objectifying remark. It reduces W to her bodily (and facial) parts, suggesting, in the process, that her professional accomplishments and other personal attributes do not count ... it treats her as an inert object, appropriately represented by a photograph.¹⁴

Nussbaum makes at least three points here about M's remark:

- A. it suggests that W's looks are all that matter for the interview;
- B. it reduces W to her bodily parts;
- C. it treats W as an inert object, appropriately represented by a photograph.

¹³ *Ibid.*

¹⁴ *Ibid.*, 271-72.

Point A seems true, though we may want to re-phrase it as: M suggests, via the remark, that W's looks are all that matter for the interview. However, point B is both obscure and absurd. It is obscure because it is unclear what it means to be reduced to one's bodily parts. Presumably, it means being dismembered. It is absurd because M's remark does nothing like that. At best, point B is just a metaphorical way of repeating point A; that is, its literal content is obviously false, but Nussbaum uses it as a picturesque way of conveying the content of point A. There is a similar problem with point C: how can a remark treat W as an inert object? Perhaps Nussbaum means that M, by making the remark, treats W as an inert object. But that seems ridiculous. By addressing the remark to W, M is treating her as a person who can understand and respond to remarks, something which an inert object could not do. The remark itself is inconsistent with the claim that W is an inert object because it says that W can perform the activity of sending some pictures. Perhaps Nussbaum means that M suggests that W is appropriately represented by a photograph and therefore suggests that W is an inert object. But it is plain false that only inert objects can be appropriately represented by a photograph: anything visible, whether it is inert, living, human, or something else, can be appropriately represented by a photograph in some contexts. It seems that the best that we can do with point C is to regard it as a metaphorical way of stating point A along with the caveat that the suggestion made by point A is inappropriate in its context. No literal sense has been given to the phrase "treating a person as an inert object."

Nussbaum leaves the discussion of her seven ways of objectification hanging in the air and moves on to consider Dworkin and MacKinnon, Immanuel Kant and Karl Marx. However, I will complete the discussion by further considering fungibility, violability, and denial of autonomy.

It should already be clear that (4) fungibility, involves no denial of autonomy. Joanna might not only have been using Joe as a tool; she might also have treated him as fungible, as replaceable by any other plumber who had the competence to do the job. Indeed, she might have made that explicit by inviting several plumbers to quote a price for the job and then choosing the cheapest. That would have been permissible, it would not have involved a denial of Joe's natural or moral autonomy, and it would not have been treating Joe as being non-human.¹⁵ Similarly, when I come to the check-out at the supermarket, I normally regard all the check-out persons as fungible with each other, choosing whichever one seems likely to deal with me most quickly. I may even regard the check-out people as fungible with the

¹⁵ This point is made by Axel Honneth in criticism of Georg Lukács. See Axel Honneth, "Reification and Recognition," in *Reification: A New Look at an Old Idea*, with commentaries by Judith Butler, Raymond Geuss, and Jonathan Lear, ed. by Martin Jay (Oxford: Oxford University Press, 2008), 76.

automated check-out, if there is one, as there usually is nowadays. But I do not thereby treat the check-out people as if they lack natural or moral autonomy; and I recognise that the check-out people are human in contrast to the automated check-out (if I use a check-out person I will speak to her, at least to say "thank you," which I will not do if I use the automated check-out).

Denial of autonomy is not implied by (5) violability. There is no inconsistency in treating a person *both* as something that it is permissible to break up or break into *and* as having natural autonomy. Soldiers in combat do that regularly. It is not even inconsistent to treat a person as something that is physically violable and also as a being with the moral right to direct her own actions. Surgeons do it legitimately where the patient has consented and has thus waived her moral right not to be physically violated. It is often said that some surgeons find it easier to perform surgery if they think of the patient as a machine to be repaired, or in some other way as an object rather than as a person;¹⁶ but *thinking* of someone in a particular way does not imply *treating* her in that way. For example, it is possible to treat a person with great courtesy while thinking her to be a scumbag. In whatever way a surgeon thinks of her patient while operating, if she is doing her job properly she still treats the patient as a person, with natural and moral autonomy. Thus, physical violability does not entail denial of autonomy and it does not involve treating a person as being non-human, even if, in some cases, *thinking* of the person as non-human is helpful in accomplishing a task which involves violating that person's body.

Nussbaum's (2) denial of autonomy, *may* be morally problematic. Natural autonomy, the capacity for critical appraisal, is what grounds moral autonomy, the moral right to direct one's own actions. Both are lacking, to a greater or lesser degree, in children and in some adults with neurological or psychological impairments. It is permissible, even obligatory, to treat such people as if they lack autonomy, because they do. It is normally permissible to treat a normal adult as lacking moral autonomy only if she has voluntarily given up her moral right to direct her own actions. In all other cases, treating a normal adult as lacking moral autonomy is a violation of her moral rights and thus normally impermissible. It is also morally problematic to treat a normal adult as lacking natural autonomy. For instance, one might continually offer mundane advice which might be helpful to a child but which any normal adult could be taken to know; or one might take precautions on her behalf, or provide practical assistance, which only a child would find helpful. None of that would amount to treating her as non-human; but it would amount to treating her as a child. The recipient of these

¹⁶ For example, Henry Marsh, *Do No Harm* (London: Phoenix, 2014), 24.

offered helps might be, not only irritated, but insulted, by them; but even if she is only amused, they are still morally problematic. For, such repeated interventions may sap confidence or foster dependency, thereby undermining a person's ability or inclination to utilise her moral right to direct her own life as fully as she should. It is disappointing that this genuine moral issue is not even mentioned in Nussbaum's discussion.

In summary, we have distinguished

(2) denial of autonomy

into denial of natural autonomy, that is, a person's capacity for critical appraisal, and denial of moral autonomy, that is, a person's moral right to direct her own life. It is not the case that

- (1) instrumentality,
- (4) fungibility,
- (5) violability,
- (6) ownership, or
- (7) ignoring a person's feelings and experiences

is incompatible with acknowledging a person's natural autonomy. ownership is incompatible with acknowledging a person's *moral* autonomy; but instrumentality, fungibility, violability, and ignoring a person's feelings and experiences are not. Even ownership will involve a prior acknowledgement of moral autonomy if the person has decided voluntarily to relinquish her moral autonomy. Treating a normal adult as if she lacks *moral* autonomy is normally impermissible unless she has consented to be so treated. Treating a normal adult as if she lacks *natural* autonomy is morally problematic under some circumstances. Thus, none of the abovementioned (nos. 1-7, except no. 3) is inherently impermissible; though each will be impermissible in a context in which it involves a violation of moral rights which is impermissible (as violations of moral rights normally are). None (again, with the exception to no. 3) inherently involves treating a person as a non-human. With regard to

(3) inertness

it is true that treating a person as either permanently a non-agent or as permanently inactive is incompatible with treating her as autonomous. But it is not clear how one could treat a person in such ways, and Nussbaum does not enlighten us. Accordingly, I say nothing further about inertness, except in the Conclusion.. We therefore, so far, have only one clear sense in which any form of objectification is by its nature morally problematic, namely,

repeated and varied denial of the (full) natural autonomy of a normal adult; but that is an issue that Nussbaum fails to discuss.

3. Ends in Themselves

Nussbaum includes in her discussion the Kantian topic of treating people as ends in themselves. She seems to equate such treatment with treating a person non-instrumentally.¹⁷ Although she does not say so, that is a significant departure from Kant. For Kant, it is permissible to treat a person instrumentally, as a tool, so long as we treat the person *at the same time* as an end in himself.¹⁸ The notion of treating a person as an end in himself is obscure, and Kant does little to clarify it. He does say that a person is used *merely* as a means if his moral rights are thereby violated; and that a person used instrumentally is treated *also* as an end provided he shares the end of the action.¹⁹ Those two points together suggest that a person's consent to be used as a means because doing so serves his own ends is what makes an instrumental use of that person a treatment of him which is not *merely* as a means but *also* as an end in himself. That seems to cover two kinds of case.

The first is that in which the two people have the same end but in which only one of them is used as a means. This can be illustrated by Nussbaum's example of using her lover's stomach as a pillow. She says that this is unproblematic because she is not using him *primarily* or *merely* as a means, provided that: she has or can presume his consent, she is not causing him pain, and she generally treats him as more than a pillow.²⁰ In this example, Nussbaum's lover is allowing himself to be used as a means to her comfort because her comfort is also an end of his. He is not using Nussbaum as a means. The second kind of case is that of mutual instrumentality, in which the ends of the two people differ but can both be achieved through cooperation. In hiring Joe to do her plumbing, Joanna is using him as a means but, since Joe consents to such use for the sake of the payment from Joanna that he can employ for his own ends, Joanna is also treating Joe as an end in himself. Similarly, Joe is using Joanna as a means to finance the achievement of some of his ends, but he is treating her as an end in herself *as well* because she consents to pay him for the sake of getting her pipe fixed. It seems that Nussbaum would not want to say that Joanna's use of Joe, or Joe's use of Joanna, is impermissible.²¹ I therefore take her departure from Kant, when

¹⁷ Nussbaum, "Objectification," 261.

¹⁸ Immanuel Kant, *The Moral Law, or Groundwork of the Metaphysic of Morals*, trans. by H.J. Paton (London: Hutchinson, 1948), 90-91 [4: 428-429].

¹⁹ *Ibid.*, 92 [4: 429-430].

²⁰ Nussbaum, "Objectification," 265.

²¹ *Ibid.*, 267, note 30.

she takes treatment as a means to *exclude* treatment as an end, to be unintended, a slip.

Nussbaum suggests that a non-instrumental treatment of adult humans entail treating those humans as autonomous.²² Assuming here that by a “non-instrumental treatment” she means treating someone not *merely* as a means, then what she says is false, as we have seen. A slave-owner of a *voluntary* slave treats his slave as an end as well as a means, given that the slave has consented to such treatment to achieve his own ends. However, the slave-owner no longer treats his slave as morally autonomous but, rather, as someone whose actions he (the slave-owner) now has a moral right to direct. The same point can be made using the example of employment. The relationship between Joanna and Joe is one between independent contractors, rather than one of employment: Joanna says what result she wants but she leaves it to Joe to work out how to do it, so Joe retains his moral autonomy. In contrast, a relationship of employment is one in which the employee gives up part of his moral right to direct his own actions by giving the employer the moral right to direct the employee with regard to a range of loosely specified tasks within working hours.²³ Thus, employer and employee have a mutually instrumental arrangement in which each treats the other as an end in himself as well as a means, but the arrangement also entails that the employer treats the employee, once the contract has begun, as not fully morally autonomous.

Nussbaum also looks favourably on the claim that treating an adult human as an end in himself entails taking his experience and feelings into account.²⁴ The example of Joanna and Joe shows that to be false. Further, we might in some cases see that a person’s experiences and feelings are inappropriate to his situation and thus pointedly ignore them in our dealings with him to try to bring him to his senses for his own sake.

I think that what lies behind this mistake, and also behind Nussbaum’s apparently unintended departure from Kant, is that she has a tendency to think that treating someone as an end in himself means treating him as a friend or as a loved-one. Some behaviour that is permissible with regard to people who are not friends or loved-ones would be at least inappropriate ways of treating someone who is a friend or a loved-one. Some of the seven ways of objectification would be so. Thus, if Joanna and Joe are friends or lovers, Joanna might still ask Joe to fix her leaking pipe, but it would be inappropriate for her to treat him as fungible by asking him to compete for a contract against other plumbers; it would be inappropriate for

²² *Ibid.*, 261.

²³ Ronald Coase, “The Nature of the Firm,” in *The Firm, the Market and the Law* (Chicago, IL: University of Chicago Press, 1998), 39, 53-55.

²⁴ Nussbaum, “Objectification,” 262.

her to “deny his subjectivity” by ignoring Joe’s experience and feelings about undertaking the job; Joe may feel obliged to help Joanna as a favour, thereby sharing her end, rather than using her instrumentally by accepting a fee; and both might think that payment is out of place because it is redolent of ownership, rather than a relationship between friends, even though it is only a temporary kind of ownership of time and skills until the job is completed rather than slavery.²⁵

It may also be that other people, too, who denounce objectification are confusing relationships of love and friendship with other kinds of relationships, or perhaps making the mistake of thinking that all human relationships should be ones of love or friendship (which is impossible in any large society). While some, though not all, of the seven ways of objectification are inappropriate in close relationships, all of them are permissible in at least some other relationships, and some (instrumentality, fungibility and denial of subjectivity) are indispensable in the majority of relationships in which people in large societies engage. Thus, the fact that the term “objectification” is pejorative makes it an inappropriate and misleading word to apply to all cases which exemplify some of Nussbaum’s “ways of objectification,” even though a pejorative word may be appropriate to describe some of Nussbaum’s “ways of objectification” when exemplified in close relationships.

A somewhat similar conclusion is reached by Nussbaum in her discussion of objectification in literature.²⁶ She affirms that not all types of objectification are equally objectionable, that one and the same kind of objectification may be evaluated differently in different contexts, and that some forms of objectification may be not only morally unproblematic but even wonderful parts of sexual life.²⁷ I will not, however, recount and evaluate Nussbaum’s discussion of literature since, in addition to inheriting the confusions and obscurities of her discussion of ways of objectification, it is literary rather than philosophical, being vague, ambiguous, metaphorical and poetic, which makes it difficult to discuss critically. Indeed, it seems more like an invitation to share particular feelings than a rational argument.

²⁵ Jason Brennan and Peter Jaworski, “Markets Without Symbolic Limits,” in *Ethics*, 125:4 (2015), 1060-66 and Axel Honneth, *Freedom’s Right*, trans. by Joseph Ganahl (Cambridge: Polity Press, 2014), 134-54, contend that the inappropriateness of at least some of these ways of treating a friend or lover are culturally or historically relative rather than essential to the relationship of friendship.

²⁶ Nussbaum, “Objectification,” 251-56, 271-91.

²⁷ *Ibid.*, 256.

4. Casual Sex, Prostitution, Pornography

Casual sex, prostitution, and pornography involve several of Nussbaum's seven ways of objectification. However, none of those activities need involve objectification in any objectionable sense. That follows directly from our previous discussion, so we can be brief.

All sex with another person involves instrumentality since it involves a person using another for sexual pleasure. However, the user will at the same time treat the other person as an end in herself provided that the other person consents to the sex with a view to her own ends, either because the instrumentality is mutual or because her goal in the activity is to provide the other person sexual pleasure. The consent normally ensures that there is no violation of moral autonomy; and there need be no denial of natural autonomy. I take 'casual sex' to mean sex with a person who is neither a friend nor a loved-one, so it need not involve a concern for the other person's experience or feelings; but since, I assume, it is usually conducted in a friendly way, it will usually involve some such concern. All penetrative sex plainly involves violability and I assume that casual sex normally involves penetrative sex of some kinds. However, so long as consent is given to the penetration, there need be no violation of moral autonomy. Being permitted the use of another's body, within some loosely understood scope, does appear to involve some kind of property-claim over that body; but it does not seem to be ownership in Nussbaum's sense, because it is only a temporary claim and there is no payment. Casual sex also involves fungibility. Consider the following examples.

Fred is in a bar looking around for a potential sex partner for the night. He sees several women any one of whom will suit his purpose. Which one he settles on, if any, will depend upon circumstances, such as how approachable she is, whether she is interested in having casual sex with him that night, whether she is accompanied by a boyfriend, and so on. Similarly, Freda may be in the same bar looking around for a potential sex partner and seeing several men, any one of whom will suit her purpose; and which one she settles on, if any, will depend upon circumstances. For both of them, the sex partner they end up with, if any, is fungible. Still, the casual sex that they have, assuming that they are successful, need involve no treatment of a person *merely* as a means, no denial of autonomy and no payment; and each may engage in the activities with a concern for the other person's ease and enjoyment. In this, there seems to be nothing impermissible or morally problematic.

The only essential difference between casual sex and prostitution is that the latter involves a payment, usually a man paying a woman, but sometimes a woman paying a man, sometimes a man paying a man, and

sometimes a woman paying a woman. That means that prostitution involves a claim of property more explicitly than does casual sex in general: the buyer owns some of the sexual skills of the seller, for a delimited period, by means of a contract. However, such ownership does not amount to slavery, any more than Joanna enslaves Joe when she hires him to fix her leak, or any more than an employer enslaves an employee. Further, the business transaction, being of a personal nature, would normally be conducted in a friendly manner on both sides, as it normally is when one gets a haircut or receives dental treatment or physiotherapy. Thus, there is nothing inherently impermissible or morally dubious about prostitution. Of course, in some circumstances, in which coercion or fraud is involved, there is a violation of moral rights which makes prostitution impermissible; but the same applies to any other activity in which coercion or fraud is involved (forced physiotherapy, forced dental treatment and forced barbering are also normally impermissible). It is sometimes claimed that in contemporary Western societies, prostitution standardly involves coercion, perhaps in subtle forms; but such claims often depend upon mistaken assumptions,²⁸ or social theories, such as Marxism, that have been discredited.²⁹ In any case, even if correct, such claims would oppugn only particular forms of prostitution.

Pornography is the depiction of sexual activities, either in words or, perhaps more usually, in images. Written pornography is a form of speech, so it can be defended effectively by at least some of the arguments that are used to defend freedom of speech. That is an issue that I will leave on one side. Here, I focus on visual pornography, either photographs, films, or videos of people engaged in sexual activity. The sex depicted in such images will often be casual; indeed, the participants will often be paid to do it, so it may be a kind of prostitution. But we have seen that there is nothing inherently morally problematic about casual sex or prostitution. Further, if those engaged in the sexual activities have consented to have images of those activities made and distributed, and if the viewers of the images have consented to see them, there is no denial of autonomy and there need be no violations of moral rights. Of course, some of Nussbaum's forms of objectification are involved: (mutual) instrumentality, fungibility, violability and (limited) ownership; and it seems highly likely that "denial of subjectivity" will be involved, at least to some extent, though there is no necessity for that to be so. But none of those things has been found by its nature to be morally objectionable. As for the *content* of pornography, provided the people depicted have not been coerced or deceived into

²⁸ Ronald Weitzer, "New Directions in Research on Prostitution," in *Crime, Law and Social Change*, 43:4-5 (2005), 211-235.

²⁹ Karl Popper, *The Open Society and its Enemies*, vol. 2 (London: Routledge and Kegan Paul, 1945).

participation, they are only doing what they want, and are entitled, to do, so it is difficult to see why that should be problematic. If it encourages some viewers to do similar things, then, so long as no coercion or fraud is involved, they will again be doing only what they want and are entitled to do. Whether there is any *message* conveyed by a piece of visual pornography is always open to dispute, and different people may well take very different messages from the same piece of pornography, if they take any messages away from it at all; but any messages should be protected by freedom of speech in any case. In short, barring special circumstances, visual pornography appears to be permissible and morally unproblematic.

It might be objected that forms of casual sex, prostitution, and pornography that are morally unproblematic according to the above are nevertheless illegal in many countries. For example, prostitution is illegal in Slovenia, the Philippines, and the United States (except for some parts of Nevada), and buying sex is illegal in Canada, Iceland, Norway, and Sweden;³⁰ casual sex is illegal in seventy-four countries if it takes place between people of the same sex;³¹ and in Britain sadomasochistic pornography is illegal if it is “grossly offensive.”³² The short way with that objection is to maintain that laws that criminalise activities that are morally unproblematic are unjust. A longer way would have to address the contested question of whether there is a general duty to obey the law; but that is an exercise that cannot be undertaken here.

5. Conclusion

There is a good deal of writing about objectification, particularly of women, and particularly in connection with sex, but it is generally obscure. Nussbaum’s discussion of the topic is clear as compared with Dworkin, MacKinnon and other activists, but it is marred by the following shortcomings:

- Nussbaum contradicts herself when discussing the logical relations between her seven ways of objectification;

³⁰ “100 Countries and Their Prostitution Policies,” in *Procon.org* (18 May 2016), <http://prostitution.procon.org/view_resource.php?resourceID=000772>.

³¹ Siobhan Fenton, “LGBT relationships are illegal in 74 countries, research finds,” in *Independent* (17 May 2016), <<http://www.independent.co.uk/news/world/gay-lesbian-bisexual-relationships-illegal-in-74-countries-a7033666.html>>.

³² Criminal Justice and Immigration Act, 2008, c. 4 (United Kingdom), part 5, section 63.

- many of her claims about the logical relations between those ways seem to be false;
- one of those ways, namely, inertness, does not seem to make sense;
- she relies heavily on the notion of autonomy (or self-determination), which she does not explain but which is used in a multiplicity of senses in the philosophical literature;
- only one of her ways of objectification, namely, denial of moral autonomy, seems to be normally impermissible, but even that seems permissible if moral autonomy is relinquished with consent;
- none of the ways of objectification necessarily involves treating a person as non-human, as she claims they do;
- she does not examine the one way of objectification that seems inherently morally problematic, namely, repeated and varied denial of the natural autonomy of a normal adult;
- she sometimes takes treating a person as an end in himself to exclude treating the person instrumentally;
- she seems to conflate treating a person as an end in himself with treating a person as a friend or loved-one;
- she seems incognisant of many relevant and quite ordinary facts about permissible, even indispensable, ways of treating people which count as one or more of her seven ways of objectification;
- much of her discussion is vague, ambiguous, metaphorical and poetic;
- she acknowledges that objectification can be permissible, morally unproblematic and even a wonderful part of life, yet she continues to employ the term "objectification" which she acknowledges to have a pejorative connotation.

Given the obscurity and confusions in which the term "objectification" is mired, and the apparently irresistible temptation to use it metaphorically, ambiguously, and pejoratively, it would be best to eschew the term entirely. We can describe actions that are forms of Nussbaum's six meaningful "ways of objectification" without using the word

“objectification,” thereby avoiding its usually inapposite pejorative connotation; and we can talk of behaviours that are impermissible or morally problematic.

I have argued that casual sex, prostitution, and pornography are normally permissible and are not inherently problematic, despite involving most of Nussbaum’s ways of objectification, and that people who denounce them may often be confusing relationships of love and friendship with other kinds of relationships, or making the mistake of thinking that all human relationships should be ones of love or friendship (which is impossible in any large society).

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190 'OBJECTIFICATION' AND OBFUSCATION

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